IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.8.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.473 of 2007

Arunachalam .. Petitioner

Vs

1. The State of Tamilnadu,
   rep. by its Secretary to Government,
   Department of Prohibition & Excise,
   Fort St. George,
   Chennai 600009.

2. The District Magistrate
   and District Collector,
   Cuddalore District at Cuddalore. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus call for records in C4/D.O.11/2007 dated 08.03.2007 on the file of the 2nd Respondent herein and quash the same as illegal and direct the Respondents to produce the detenue Hari @ Mun Road Hari S/O. Balakrishnan, now confined in Central Prison, Cuddalore before this Honourable Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

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ORDER

(Order of this Court was made by P.D.DINAKARAN,J.)

The order dated 8.3.2007, passed by the second respondent, dubbing one Hari @ Mun Road Hari, son of Balakrishnan, as a Goonda and directing his detention under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu

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Act 14 of 1982), is challenged in this writ petition by a friend of the detenu.

2. According to the detaining authority, viz., the second respondent, the ground case is said to have taken place on 2.2.2007 at 9.30 p.m. On the basis of intimation, the Sub Inspector of Police, Annamalai Nagar Police Station, went to Raja Muthiah Hospital, Chidambaram and examined one Gowthaman, who has been admitted as inpatient, and recorded his statement. The complainant has stated that he had prior enmity with the detenu due to money transaction. On 2.2.2007, when he went to AA Mess for getting tiffin, where he found that the detenu along with his associates quarreling with the mess owner. He intervened and advised him not to indulge in such quarrel. Aggravated by this, the detenu and his associates came in a tractor on the same night and the detenu attacked the complainant with a knife by saying that he would kill him and his associates also attacked him. On witnessing the same, the public rushed to catch them. But, the detenu and his associates threatened the public at knife point. The public and the shopkeepers ran here and there fearing danger to their lives and properties. By their action, the detenu and his associates created panic. The detenu and his associates admitted the complainant in the hospital. Based on the complaint, a case was registered in Crime No.42/2007 under Sections 293, 324 and 307 IPC on the file of Annamalainagar Police Station and the detenu and his associates were arrested on 5.2.2007 and remanded to judicial custody.

3. The second respondent, taking note of the above case as a ground case and finding that there are three adverse cases pending against the detenu for the offences punishable under Sections 323, 332, 333 and 307 r/w 34 I.P.C in Crime No.157/2002 on the file of Annamalai Nagar Police Station, Sections 294, 392 r/w 397, 506(ii), 392 r/w 397 r/w 34 I.P.C. in Crime No.23/3003 on the file of Killai Police Station and Sections 147, 148, 302 IPC and 302 r/w 120B r/w 149 IPC in Crime No.1863/2004 on the file of Chidambaram Police Station, and having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

4. The core contention of the learned counsel for the petitioner is that the detenu is not an habitual offender, as all the adverse cases relied on in the impugned detention order by the detaining authority, were already quashed by this Court, which would go to show that the detaining authority has not applied his mind while passing the impugned order of detention.

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5. Admittedly, all the adverse cases relied on by the detaining authority in the impugned order of detention were quashed by this Court and hence the detenu cannot be termed as an habitual offender.

6. In view of the above, the impugned order of detention dated 8.3.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

ATR

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
   Department of Prohibition & Excise,
   Fort St. George,
   Chennai 600009.

2. The District Magistrate
   and District Collector,
   Cuddalore District at Cuddalore.

3. The Superintendent,
   Central Prison,
   Vellore.

4. The Public Prosecutor,
   High Court, Madras.

+ 1 cc to Mr. V. Parthiban, Advocate SR No. 52765

JSK(CO)
SR/11.9.2007

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